

VZCZCXRO8832  
OO RUEHROV  
DE RUEHNR #2706 3651012  
ZNR UUUUU ZZH  
O R 311012Z DEC 09  
FM AMEMBASSY NAIROBI  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0302  
INFO IGAD COLLECTIVE

UNCLAS NAIROBI 002706

SENSITIVE  
SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [KDEM](#) [PHUM](#) [KE](#)

SUBJECT: Civil Society Activists Spend Christmas in Jail

11. (SBU) Police arrested twenty-two members of Bunge la Mwananchi (The "People's Parliament" in Swahili) on December 24, 2009. The Bunge members were holding a peaceful demonstration to call for the resignation of Minister of Education Sam Ongeru, who has been implicated in a recent scandal involving the theft of donor-provided education funds. The activists were charged by the police with unlawful assembly, and taken to the Kibera Law Courts where the magistrate dismissed the case as Bunge la Mwananchi had filed the required notice of intent to demonstrate with the police on December 22 (Note: the police have stated that they asked the Bunge members not to demonstrate on Christmas eve. End note.).

12. (SBU) The police did not release the activists as directed by the court, and instead returned the Bunge members to Nairobi's Central Police Station. On the morning of December 26, the lawyer for Bunge la Mwananchi called the Ambassador and poloff alleging that the activists were being detained illegally, had been denied food and water while in custody, and that two elderly women among the detainees were suffering from medical problems. According to Bunge chairman George Nyongesa, who was among those being held, one of the senior officers in charge of the station directed that the activists be treated "like prisoners." The Bunge members were then stripped of their shoes and socks, were placed in a cell next to the common toilets, and were periodically denied water and access to the latrines. Two of the detainees were allegedly beaten on Christmas night. Three elderly women suffering from medical problems were at first denied access to medical care; following a hospital visit police confiscated their prescribed medication.

13. (SBU) Calls from poloff to the commanding officer at the Central Police Station confirmed that the activists were being held without charge. Kenya Police Service Commissioner Mathew Iteere subsequently told the deputy director of the Kenya National Commission on Human Rights Hassan Omar Hassan that the original charge sheet had been filled out by an illiterate police officer, and that the Bunge members would be held until Monday, December 28 when revised charges would be filed. Both the commanding officer at the Central Police Station and Police Commissioner Iteere refused to release the activists, despite the lack of charges and court-ordered release.

14. (SBU) The Bunge members were finally released on bail in the afternoon of December 26 following a call from the Ambassador to Minister for Internal Security George Saitoti.

15. (SBU) The activists appeared in court again on December 28 to answer a revised police charge of unlawful assembly. The police prosecutor is utilizing a 1930s-era colonial statute which criminalizes any gathering of more than three people without specific police approval. Lawyers for Bunge la Mwananchi plan to appeal the constitutionality of the statute to the High Court; trial for the activists has been set for February 22.

¶6. (SBU) Comment: The Christmas eve arrest of Bunge la Mwananchi activists is the most recent episode in a long history of government harassment of the group. Political leaders are sensitive to the group's success in mobilizing low income casual laborers to demonstrate against government impunity. Throughout the year, Bunge members have reported to the Embassy credible allegations of arrest, abductions, and intimidation at the hands of the police; the police point to occasional instances of violence as justification for repressing the group's activities. Police determination to prosecute the December 24 march-which was by all accounts peaceful-is likely driven by a vendetta against political activist Omkoiti Omtata who has been particularly outspoken against government corruption. Post will continue to follow this case closely and urge the government to drop its prosecution of what was clearly a peaceful exercise of Bunge's rights to free speech and assembly. End comment.

RANNEBERGER